



STATE OF CALIFORNIA
FRANCHISE TAX BOARD
Legal Branch
P. O. Box 1720
Rancho Cordova, CA 95741-1720

STEVE WESTLY
Chair
CAROLE MIGDEN
Member
STEVE PEACE
Member

September 30, 2003 Franchise Tax Board Litigation Roster

All cases currently active and those recently closed are listed on the roster. Activity or changes with respect to a case appear in bold-face type. Any new cases will appear in bold-face type.

A list is also provided of new cases that have been added to the roster for the month as well as a list of cases that have been closed and will be dropped from the next report.

The Franchise Tax Board posts the Litigation Roster on its Internet site. The Litigation Roster can be found at: www.ftb.ca.gov/legal/Lit_roster.pdf

The Litigation Roster on the Internet site will be the latest version. It is normally revised on a monthly basis.

FRANCHISE AND INCOME TAX
CLOSED CASES – SEPTEMBER 2003

Case Name

Court Number

Weaver, John H. & Lois R.

Los Angeles Superior Court Docket No. BC296238

FRANCHISE AND INCOME TAX
NEW CASES – SEPTEMBER 2003

Case Name

Court Number

Agustin, Remigio I.

Alameda County Superior Court No. HG03114558

SEPTEMBER 2003

Anthony Sgherzi

Paul Gifford

- Issues**
1. Whether application of the statute of limitations in section 19306 of the Revenue and Taxation Code in the circumstance of this case is in violation of the United States Constitution.
 2. Whether the doctrine of equitable tolling should be applied in the circumstances of this case to allow plaintiff's claim for refund.

Year 1996 **Amount** \$1,607.38

Status Appellant's Complaint was filed on September 2, 2003 and was served by mail on the Franchise Tax Board on September 8, 2003.

AMDAHL CORPORATION v. Franchise Tax Board

San Francisco Superior Court Docket No. 321296

Filed – 05/14/01

Appellate Court 1st District Court No. A101101 (FTB)

Appellate Court 1st District Court No. A101203 (Amdahl)

Taxpayer's Counsel

Timothy K. Roake

Fenwick & West LLP

FTB's Counsel

Kristian Whitten

- Issues**
1. Whether Section 25106 was properly applied to the facts of this case in a manner which does not discriminate against foreign commerce.
 2. Whether Section 24411 was properly applied in this case.
 3. Whether Section 24411 discriminates against foreign commerce.
 4. Whether the amount received from the United Kingdom as a credit for amounts paid under the United Kingdom's Advanced Corporate Tax is a dividend for purposes of Sections 24411 and 25106 of the Revenue and Taxation Code.
 5. Whether the amount received from the United Kingdom as a credit for amounts paid under the United Kingdom's Advanced Corporate Tax is gross income.

Years 1988, 1989, 1991 and 1992 **Amount** \$2,935,439.00

Status Opening Brief in Appeal A102558 of Appellant Franchise Tax Board filed August 14, 2003. Reply Brief of Respondent and Cross-Appellant Amdahl Corporation filed August 14, 2003. Brief of Respondent Amdahl Corporation in Appeal A102558 filed September 4, 2003. Reply Brief in Appeal A102558 of Appellant Franchise Tax Board filed September 28, 2003.

COLGATE-PALMOLIVE, CO. & SUBSIDIARIES v. Franchise Tax Board

Sacramento Superior Court Docket No. 03AS00707

Filed – 02/07/03

Taxpayer's Counsel

Eric J. Coffill, Carley A. Roberts

Morrison & Foerster, LLP

FTB's Counsel

Steven J. Green

- Issues**
1. Whether the sales factor was properly calculated by excluding proceeds from short-term financial instruments and value added taxes assessed by foreign countries.
 2. Whether the property factor needs to be adjusted to value property at its appreciated value to fairly reflect its activities in California.

Years 1974-1982, 1984-1987, 1989-1991 Amount \$2,912,696.00

Status Discovery proceeding.

EDUCATIONAL EMPLOYEES CREDIT UNION, et al. v. Franchise Tax Board

Sacramento Superior Court Docket No. 511821

Filed - 12/20/89

Court of Appeal, 3rd Appellate District, No. 3-CV-C020733

Taxpayer's Counsel

Joanne Garvey, & Teresa Maloney

Heller, Ehrman, White & McAuliffe

FTB's Counsel

Steven Green

Issue Whether defendant's determination as to the methodology for deduction of indirect expenses against taxable investment income was proper.

Years 1980 through 1985 Amount \$1,137,006.98

Status Waiting for Court of Appeal to set date for Oral Argument.

FARMER BROS. CO. v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC237663

Filed - 09/29/00

Court of Appeal, 2nd Appellate District Court No. 160061

California Supreme Court No. S117131

Taxpayer's Counsel

Robin C. Campbell, Esq.

Anglin, Flewelling, Rasmussen, Campbell & Trytten, LLP

FTB's Counsel

Dean Freeman

Issue Whether Section 24402 of the Revenue and Taxation Code is unconstitutional under the United States Constitution.

Years 06/30/92 through 6/30/98 Amount \$814,705.00

Status **California Supreme Court, Remittitur transferring jurisdiction back to trial court dated September 9, 2003.**

FREIDBERG, EDWARD & TRACI E. REYNOLDS v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC-02-404182

Filed - 02/06/02

Taxpayer's Counsel

John E. Cassinat & Ronald L. Carello

Cassinat Law Corporation

FTB's Counsel

Marguerite Stricklin

Issues

1. Whether Plaintiffs' "horse breeding and racing business expenses" were deductible as business expenses in the years involved.
2. Whether expenses incurred by plaintiffs in horse breeding and racing activities were deductible as business expenses in the years involved.

Years 1991 through 1994 Amount \$149,696.00

Status Waiting for Judge Goldsmith's Statement of Decision.

FREYERMUTH, JANINE v. Franchise Tax Board

San Francisco Superior Court Docket No. 308985

Taxpayer's Counsel

Janine Freyermuth, In Pro Per

Filed – 01/04/00

FTB's Counsel

Randall P. Borcharding

Issue Whether the taxpayer was a resident of California.

Years 1986 and 1987 Amount \$47,471.00

Status Order to Show Cause Re: Dismissal (CRC225).

FREYERMUTH, REED v. Franchise Tax Board

San Francisco Superior Court Docket No. 308973

Taxpayer's Counsel

Joel K. Belway, Esq.

Filed – 01/04/00

FTB's Counsel

Randall P. Borcharding

Issue Whether the taxpayer was a resident of California.

Years 1986 and 1987 Amount \$47,471.00

Status U.S. Bankruptcy Court Order – Discharge of Debtor granted on February 19, 2003.

GENERAL MOTORS CORPORATION, et al. v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC269404

Court of Appeal, 2nd Appellate District No. B165665

Taxpayer's Counsel

Charles R. Ajalat

Law Office of Ajalat, Polley & Ayoob

Filed – 03/06/02

FTB's Counsel

Stephen Lew, Donald

Currier & Joseph O'Heron

- Issues
1. Whether gross receipts from the disposition of marketable securities were properly excluded from the sales factor.
 2. Whether interest income was properly characterized as business income.
 3. Whether dividends received with respect to stock representing less than a 50% voting interest were properly classified as business income.
 4. Whether the limitation on deductions prescribed by sections 24402 and 24410 resulted in unconstitutional discriminatory taxation.
 5. Whether various receipts from intangible assets were properly excluded from the sales factor.
 6. Whether research tax credits were properly limited to the entity incurring the expense.

7. Whether a deduction was properly denied with respect to foreign country taxes withheld on dividends.
8. Whether the taxpayer is entitled to an increased deduction with respect to depreciation on assets held by foreign country subsidiaries.
9. Whether the taxes determined to be owing by the Franchise Tax Board were properly computed and assessed.

Years 1986 through 1988 Amount \$10,692,755.00

Status **Court of Appeal's Order Re: FTB's Request for Judicial Notice granted on September 3, 2003.**

HARDIE, GEORGE G. v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC292256

Taxpayer's Counsel

Richard E. Posell, Gregory P. Korn
Greenberg, Glusker, Fields, Claman,
Machtiger & Kinsella, LLP

Filed – 03/18/03

FTB's Counsel

Anthony Sgherzi
George M. Takenouchi

Issue Whether Plaintiff was a resident of California for the year in issue.

Years 1993 Amount \$1,172,932.00

Status **Conference-Case Management held on September 24, 2003.**

HYATT, GILBERT P. v. Franchise Tax Board

Clark County Nevada District Court No. A382999

Taxpayer's Counsel

Thomas L. Steffen & Mark A. Hutchison
Hutchison & Steffen
H. Bartow Farr III

Filed - 01/06/98

FTB's Counsel

Felix Leatherwood

- Issues
1. Whether plaintiff was a resident of California from September 26, 1991 through April 2, 1992.
 2. Whether the Franchise Tax Board committed various torts with respect to plaintiff and is subject to a claim for damages.
 3. Whether the Nevada courts have or should exercise jurisdiction over the Franchise Tax Board.

Years 1991 and 1992 Amount \$13,204,611.00

Status Clark County District Court:
Request for Leave of Court to File FTB's Reply in Support of Its Counter-Motion to Strike Hyatt's Motion to Strike filed with the court on September 11, 2003.

<u>Year</u>	1987	<u>Amount</u>	\$133,042.00
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Status **Defendant's Notice of Motion and Motion for Summary Judgment, or in the Alternative, for Summary Adjudication; Memorandum of Points and Authorities; Statement of Undisputed Material Facts in Support of FTB's Motion for Summary Judgment; Stipulation of Facts filed on September 17, 2003.**

K-MART, CORPORATION, et al. v. Franchise Tax Board

U.S. Bankruptcy Court for the Northern District of Illinois

Filed – 04/11/03

Bankruptcy No. 02-B02474 – Adversary Proceeding No. 03A01420

Taxpayer's Counsel

FTB's Counsel

Charles F. Smith

Michael Cornez

Skadden, Arps, Slate, Meagher & Flom

Larry Fischer

Issues

1. Whether gain realized on the sale of 20+% interest in an Australian retailer, Coles, was business income.
2. Whether the gain realized on the sale of the interest in Coles was properly treated for AMT purposes.
3. Whether dividends and interest received with respect to Coles was business income.
4. Whether the taxpayer's request to account for its Canadian inventory on a LIFO basis was properly denied.
5. Whether two insurance subsidiaries were properly excluded from the combined report.
6. If the insurance subsidiaries were includible in the combined report, whether adjustments need to be made to the property and sales factors.
7. Whether proceeds from the short-term investment of financial assets were properly excluded from the sales factor.
8. Whether section 24402 is constitutional.
9. Whether adjustments based upon federal RAR's were correctly made.
10. Whether there were other unspecified errors in adjustments made or not made to the taxpayer's returns.
11. Whether an under-payment penalty was properly imposed.

<u>Years</u>	1986-1989, 1992-1994, 1999 & 2000	<u>Amount</u>	\$3,524,625.00 - Tax \$ 82,590.01 - Penalty
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Status Summons and Complaint Under 11 U.S.C. § 505 U.S. Bankruptcy Court for the Northern District of Illinois Eastern Division was filed by fax on April 17, 2003.

THE LIMITED STORES, INC. AND AFFILIATES v. Franchise Tax Board

Alameda Superior Court Docket No. 837723-0

Filed – 04/09/01

Court of Appeal, 1st Appellate District Court No. A102915

Taxpayer's Counsel

FTB's Counsel

Edwin P. Antolin

Joyce Hee

Morrison & Foerster, LLP

Issues 1. Whether gross receipts from the sale of short-term financial instruments should be included in the sales factor.
2. Whether gain realized on the sale of a partial interest in a limited partnership formed from three subsidiaries constitutes business income.

Years 1993 and 1994 Amount \$2,185,718.00

Status **Judgment Pursuant to CCP § 437c filed September 15, 2003. Notice of Entry of Judgment in favor of FTB filed September 17, 2003.**

Longbrook, Michael G. & Barbara J. v. Franchise Tax Board

Los Angeles Superior Court Docket No. 02K21208

Filed – 11/18/02

Taxpayer's Counsel

FTB's Counsel

Michael G. & Barbara J. Longbrook, In Pro Per

Elisa Wolfe

Issue Whether the frivolous return penalty provided by § 19179 has been properly assessed.

Years 1997 and 1998 Amount \$1,000.00 Penalty

Status Hearing on Plaintiffs' Request for Default, Default granted \$2.00 given to Plaintiffs on February 14, 2003.

Marken, Donald W. & Claudine H v. Franchise Tax Board

San Francisco Superior Court Docket No. 302520

Filed - 04/05/99

Court of Appeal, 1st Appellate Dist. No. A091644

California Supreme Court No. S 104529

Taxpayer's Counsel

FTB's Counsel

William E. Taggart, Jr.

Marguerite Stricklin

Taggart & Hawkins

Issue Whether plaintiffs were residents of California in 1993.

Year 1993 Amount \$244,012.00

Status **Status Conference held on September 8, 2003, and continued to November 6, 2003.**

Marro, Donald C. and Lillian S. Clancy v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC 02-414788 Filed – 11/18/02

Taxpayer's Counsel

FTB's Counsel

Donald C. Marro, In Pro Per

Kristian Whitten

Issue Whether assessments based on federal adjustments were timely made.

Years 1993 and 1994 Amount \$9,267.00

Status **Order Re: Motion to Transfer Appeal to the Court of Appeal for the First Appellate District filed on September 19, 2003. Respondent's Brief on Appeal filed September 29, 2003.**

MARTIN, SCOTT R. v. Franchise Tax Board

US Dist. Ct, Northern District of California Case No. C02-05446

Taxpayer's Counsel

Scott R. Martin, In Pro Per

Filed – 11/18/02

FTB's Counsel

Anne Michelle Burr

Issue Whether 46 USC § 11108 AND 11109 exempts the income of a merchant seaman from taxation.

Year 1999 Amount \$9,399.00

Status Judge's Order issued granting Defendant's Motion to Dismiss on July 1, 2003.

MICROSOFT Corporation v. Franchise Tax Board

San Francisco Superior Court Docket No. 400444

Taxpayer's Counsel

James P. Kleier, Esq.

Preston Gates & Ellis, LLP

Filed – 10/19/01

FTB's Counsel

Julian O. Standen

Issues 1. Whether the denominator of the receipts factor was properly calculated by excluding receipts from marketable securities.
2. Whether the limitation on the deduction of dividends provided for in Section 24402 discriminates.
3. Whether adjustments made to increase the income of controlled foreign corporations included in the combined report were proper.

Year 1991 Amount \$1,879,809.00

Status **Proposed Statement of Decision in favor of Plaintiff filed September 9, 2003. Defendant's Specification of Controverted Issues and Submission of Proposals filed September 24, 2003.**

MILHOUS, PAUL B. & MARY A. v. Franchise Tax Board

San Diego Superior Court Docket No. GIC772282

Taxpayer's Counsel

Steve Mather.

Kajan, Mather and Barish

Filed – 08/27/01

FTB's Counsel

Leslie Branman-Smith

Issue Whether the taxpayers had California source income arising from the execution of a covenant-not-to-compete as part of the sale of plaintiffs' minority interest in a business.

Year 1993 Amount \$227,246.00

Status **Judgment entered in favor of Plaintiffs on August 4, 2003. Defendant's Notice of Motion and Motion to Strike or Tax Costs, Memorandum of Points and Authorities in Support of Motion filed September 17, 2003.**

MILHOUS, ROBERT E. & GAIL P. v. Franchise Tax Board

San Diego Superior Court Docket No. GIC773381

Taxpayer's Counsel

Steve Mather.

Kajan, Mather and Barish

Filed – 08/27/01

FTB's Counsel

Leslie Branman-Smith

Issue Whether the taxpayers had California source income arising from the execution of a covenant-not-to-compete as part of the sale of plaintiffs' minority interest in a business.

Year 1993 Amount \$670,825.00

Status **Judgment entered in favor of Plaintiffs on August 4, 2003. Defendant's Notice of Motion and Motion to Strike or Tax Costs, Memorandum of Points and Authorities in Support of Motion filed September 17, 2003.**

MONTGOMERY WARD LLC v. Franchise Tax Board

San Diego Superior Court Docket No. GIC802767

Taxpayer's Counsel

Charles J. Moll III, Edwin P. Antolin, Pilar M. Sansone

Morrison & Foerster LLP

Filed – 12/30/02

FTB's Counsel

Gregory Price

Issues 1. Whether proceeds from the sale, maturity or other disposition of short-term financial instruments were properly excluded from the sales factor.
2. Whether section 24402 Rev. & Tax. Code is constitutional.

Years 1989 through 1994 Amount \$2,694,192.00

Status Discovery proceeding.

NEW GAMING SYSTEMS, INC. v. Franchise Tax Board

U.S. District Court For The Eastern Dist. No. CIVS-03-1126

Taxpayer's Counsel

Spencer T. Malysiak

Spencer T. Malysiak Law Corp.

Filed – 05/27/03

FTB's Counsel

Michael J. Cornez

Issues 1. Whether the federal courts have jurisdiction to review a denial of a claim for refund of state taxes and issue a declaratory judgment as to plaintiff's liability for state taxes.
2. Whether the Indian Gaming Regulatory Act (25 U.S.C. 2701) pre-empts state taxation of income earned by non-Indians from operating a casino.

Year 1996 Amount \$2,562.93

Status **Defendant's Notice of Motion and Motion to Dismiss First Amended Complaint Due to Lack of Subject Matter Jurisdiction, Memorandum of Points and Authorities in Support Thereof filed September 3, 2003. Plaintiff's Opposition to Defendant's Motion to Dismiss First Amended Complaint filed September 19, 2003. Defendant's Reply to Plaintiff's Opposition to Defendant's Motion to Dismiss First Amended Complaint; Defendant's Opposition to Plaintiff's Request for Judicial Notice filed September 25, 2003.**

NOBLE, HOMER E. AND STEPHANIE F. v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC273634

Filed - 05/09/02

Court of Appeal, 2nd Appellate Dist. No. B167881

Taxpayer's Counsel

Richard W. Craigo

FTB's Counsel

Anthony Sgherzi

Issue The issue is on what date during 1994 did plaintiffs cease to be residents and domiciliaries of California?

Year 1994 Amount \$151,632.00

Status Notice of Appeal filed by Plaintiff on June 16, 2003.

ORDLOCK, BAYARD M. & LOIS S. v. Franchise Tax Board

Los Angeles Superior Court Case No. BC278386

Filed - 07/25/02

Court of Appeal, 2nd Appellate Dist. No. B169465

Taxpayer's Counsel

Richard C. Field

Bingham McCutchen LLP

FTB's Counsel

David Bornstein

Issue Whether the tax involved was timely assessed.

Year 1983 Amount \$12,350.00

Status Plaintiffs' Notice of Appeal filed August 22, 2003. Civil Case Information Statement filed on August 29, 2003.

OTN, INC. & AFFILIATES v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC301102

Filed - 08/20/03

Taxpayer's Counsel

Thomas K. Bourke

Law Office of Thomas K. Bourke

FTB's Counsel

Anthony Sgherzi

Issue Whether Plaintiff is entitled to a deduction for bad debts.

Year 1995 Amount \$1,447,375.00

Status **Defendant's Answer to the Complaint filed September 17, 2003.**

PACIFIC TELESIS GROUP, INC. v. Franchise Tax Board

San Francisco Superior Court Docket No. 319008

Taxpayer's Counsel

Allan L. Schare

McDermott, Will & Emery

Filed – 02/20/01

FTB's Counsel

David Lew

Anne M. Burr

Issue What is the proper amount of depreciation deduction with respect to property acquired from former unitary affiliates?

Years 1987 through 1990 Amount \$9,960,422.00

Status **Judgment in favor of Defendant Franchise Tax Board, Notice of Entry of Judgment, and Statement of Decision filed September 9, 2003. Defendant's Memorandum of Costs (Summary) filed September 11, 2003.**

PAINE, THOMAS & TERESA A. NORTON v. Franchise Tax Board

San Francisco Superior Court Docket No. 324518

Taxpayer's Counsel

Edward Winslow

Layman, Lempert & Winslow

Filed – 09/13/01

FTB's Counsel

Marguerite Stricklin

Issues 1. Whether the plaintiffs became residents of California on April 10, 1990.
2. Whether "guaranteed payments" received by plaintiffs while residents of California from a partnership could be included in the income taxed by California.

Years 1990, 1996 through 1999 Amount \$144,278.00

Status **Appellant/Defendant's Opening Brief filed September 24, 2003.**

THE PILLSBURY COMPANY, a Delaware Corp. v. Franchise Tax Board

San Francisco Superior Court Docket No. 414931

Taxpayer's Counsel

Jeffrey M. Vesely, Esq.

Richard E. Nielsen, Esq.

Pillsbury Winthrop, LLP

Filed – 11/21/02

FTB's Counsel

David Lew

Issue Whether California definition of gross income incorporated amendments to the Internal Revenue Code dealing with losses of Alaska Native Corporation.

Years 1986 and 1987 Amount \$1,138,512.00

Status **Plaintiff's Reply to Defendant's Opposition to Plaintiff's Motion for Summary Judgment filed September 11, 2003. Defendant's (FTB) Reply to Plaintiff's Opposition to Defendant's Motion for Summary Judgment/Summary Adjudication; Defendant's Reply to Plaintiff's Request for Judicial Notice; and Defendant's Reply to Plaintiff's Objection to Evidence filed with the court on September 11, 2003. Hearing on Cross-Motions for Summary Judgment filed September 23, 2003.**

TOY'S "R" Us, Inc. & Affiliates v. Franchise Tax Board

Sacramento Superior Court Docket No. 01AS04316

Taxpayer's Counsel

Eric J. Coffill

Carley A. Roberts

Filed - 07/17/01

FTB's Counsel

Michael J. Cornez

Issue Whether gross receipts from the sale of short-term financial investment were properly excluded from the documentation of the sales factor.

Years 1991 through 1994 Amount \$5,342,122.00

Status **Judgment After Bench Trial in favor of Defendant Franchise Tax Board, Memorandum of Costs (Summary), filed September 25, 2003.**

U.S. AIRWAYS GROUPS, INC. et al. v. Franchise Tax Board

U.S. Bankruptcy Court, Eastern Dist. of Virginia No. 02-83984-SSM

Taxpayer's Counsel

John Wm Butler, Jr., John K. Lyons, Esq.

Skadden, Arps, Slate, Meagher & Flom

Filed - 05/13/03

FTB's Counsel

Lawrence K. Keethe

Mark D. Silvershotz

Issue What date plaintiff and several subsidiaries became a single unitary business?

Year 1988 Amount \$2,651,934.78

Status Status hearing re: Debtor's objection to FTB's claim set for September 18, 2003.

VENTAS, INC. & SUBSIDIARIES v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC03423154 Filed - 08/05/03

Taxpayer's Counsel

Amy L. Silverstein

Silverstein & Pomerantz, LLP

FTB's Counsel

Paul Gifford

Issue Whether Plaintiff elected to use the mark-to-market method of accounting for California purposes.

Year 1997 Amount \$205,874.00

Status **Defendant's Answer to Complaint filed September 3, 2003.**

WEINGARTEN, SAUL M. v. Franchise Tax Board

San Francisco Superior Court Docket No. 996766

Taxpayer's Counsel

Saul M. Weingarten

Saul M. Weingarten & Associates

Filed - 7/28/98

FTB's Counsel

Marguerite Stricklin

Issues

1. Whether the Board of Equalization followed proper procedures in considering the taxpayer's appeal.
2. Whether taxpayer's real estate investments were subject to passive activity loss limitations.
3. Whether FTB properly calculated depreciation with respect to various properties.
4. Whether FTB properly calculated the sales price of a piece of property sold by the taxpayer.
5. Whether penalties were improperly imposed.

Years 1987 through 1989 Amount \$88,966.00 Tax
\$22,241.75 Penalty

Status Answer to Complaint filed October 27, 1998.

YOO, Won S. and Insook v. Franchise Tax Board

San Diego Superior Court Docket No. GIC807106

Taxpayer's Counsel

Daniel J. Cooper, Esq.

Law Offices of Daniel J. Cooper

Filed – 03/13/03

FTB's Counsel

Leslie Branman Smith

Issue Whether the taxpayers are entitled to a charitable deduction on the sale of property to The Nature Conservatory.

Years 1991 and 1994 Amount \$178,858.00

Status Discovery proceeding.

YOSHINOYA WEST, INC. v. Franchise Tax Board

Los Angeles Superior Court, Central District No. BC274343

Taxpayer's Counsel

Dwayne M. Horii

William C. Choi

Rodriguez, Horii & Choi

Filed - 05/22/02

FTB's Counsel

Donald R. Currier

Issues

1. Whether Yoshinoya West, Inc. is involved in a unitary business with its Japanese parent company.
2. Whether application of the standard allocation and apportionment provision of the Revenue and Taxation Code disproportionately taxed Yoshinoya West.

Years 1986 and 1987 Amount \$1,741,534.00

Status Discovery proceeding. **Ex-Parte Application (for continue of trial date and order) filed September 18, 2003. Ex-Parte Proceeding Granted on September 18, 2003. Trial scheduled for February 25, 2004.**